

REMARKS

Applicant respectfully requests reconsideration of this application as amended.

As a preliminary matter, in the Office Action mailed August 24, 2004, the Examiner did not attach an initialed copy of the PTO-1449 form references that were mailed to the PTO on August 28, 2003. As such, applicant respectfully requests that the Examiner indicate that these references have been considered and made of record.

Office Action Rejections Summary

Claim 1 has been rejected under 35 U.S.C. §112, second paragraph.

Claims 1-6, 9, 10, 12, 14, 15, and 24 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,069,872 of Bonomi et al. ("Bonomi") in view of U.S. Patent No. 5,546,395 of Sharma et al. ("Sharma").

Claims 8, 21, and 23 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Bonomi in view of Sharma and further in view of U.S. Patent No. 6,343,326 of Acharya et al. ("Acharya").

Claims 16, 18 and 20 have been allowed.

Status of Claims

Claims 1-6, 8-10, 12, 14-16, 18, 20, 21, 23 and 24 are pending in the application. Claim 1 have been amended to more properly define a preexisting claim limitation. The amended claim is supported by the specification. No claims have been added. No new matter has been added. No claims have been canceled.

Claims 16, 18 and 20 have been allowed. Therefore, the following remarks are directed to the rejected claims.

Claim Rejections

Claim 1 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is submitted that the amendment to claim 1 overcomes the rejection.

Claims 1-6, 9, 10, 12, 14, 15, and 24 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Bonomi in view of Sharma. It is submitted that claim 1 is patentable over the cited references.

The Office Action states:

Regarding claim 1, Bonomi discloses a system and method for controlling congestion in a packet switched communications system and in particular to an explicit rate congestion control system and method for an asynchronous transfer mode (ATM) communications network. The network comprising:

a number of nodes connected through one or more communication links (Fig 1); and

a resource manager configured to allocate bandwidth over the communication links to high priority calls received at one or more of the nodes without dropping existing calls within the network (**Figs 2, 3; col 2 L7 – col 3 L60, col 5 L60-col 6 L35, col 8 L50-60**).

Bonomi fails to disclose the use of negotiation via selected compression schemes for existing calls transported on an outbound communications link.

Sharma discloses use of negotiation via selected compression schemes for existing calls transported on an outbound communications link, (**abstract; Fig 3; col. 1 L40-56; claim 4 and also see US Pat. Li et al US Pat. 5,617,423 which Sharma incorporates**).

The use of negotiated compression schemes for voice calls reduces the overall bandwidth required per call which in turn increases the total number of calls that may be completed within a same amount of bandwidth allocated.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bonomi's rate control system to include the compression schemes as taught by Sharma so as to utilize less overall bandwidth per call yet increase the total number of calls

that can be completed within the same amount of the total allocated bandwidth.

(Office Action, 8/24/04, pp. 2-3)(underlining emphasis added)

It appears that the Office Action is, again, paraphrasing the language of the claims rather than analyzing each limitation of each of claims 1-6, 9, 10, 12, 14, 15, and 24. Moreover, such paraphrasing leaves out particular claim limitations explicitly recited within the claims, and improperly adds limitations that do not appear within the claims. **For example, the Office Action analysis with respect to claim 1, purports that claim 1 includes the language of a “resource manager.” It is respectfully submit that such language does not appear anywhere in claim 1.**

Furthermore, claims 9, 10, 12, 14, 15, and 24 do not dependent on claim 1 and, thus, do not have the same limitations as claim 1. As such, the paraphrasing analysis provided by the Office Action referring to claims 1 and 9, 10, 12, 14, 15, and 24 is inapposite. Applicants respectfully submit that the analysis provided in the Office Action does not read the references onto each of the independent claim limitations and, therefore, has not established that all the limitations of the applicant’s claims are taught or suggested by the prior art references. Although applicant believes the burden has not been met in this matter, applicant is herewith making a response as best as possible in an attempt to advance prosecution of this case.

Applicant submits that claim 1 is patentable over the cited references.

Claim 1, as amended, recites:

A system, comprising a network node configured to negotiate, with at least one other node, for connections for high priority calls received at the node in the face of otherwise congested outbound communication links, wherein the node is configured to **negotiate** for one or more voice channels to accommodate the high priority calls **depending upon selected compression schemes** for existing calls transported on the outbound communication links

(emphasis added)

Bonomi does not disclose a node configured to negotiate for one or more voice channels to accommodate the high priority calls depending upon selected compression schemes for existing calls. Applicant believes the Examiner to be in agreement on this point.

Applicant submits that Sharma fails to cure this deficiency. Sharma teaches a negotiation handshake protocol which enables two sites to negotiate a compression rate for communication between the two sites over **a single communications link (channel 1111)** as illustrated in Figure 3 of Sharma. (Sharma, Abstract, col. 1 lines 40-57). As such, **no channel negotiation is being performed in Sharma**. Rather, Sharma is merely negotiating a compression rate to be used for channel 1111.

In contrast, claim 1 includes the limitation of “to negotiate *for one or more voice channels* to accommodate the high priority calls **depending upon selected compression schemes**.” Nothing in Sharma teaches or suggests the negotiation for one or more voice channels to accommodate high priority calls by a node depending upon selected compression schemes. As such, a combination of the Sharma with Bonomi fails to teach or suggest the above noted claim 1 limitation. Therefore, applicant submits that claim 1 is patentable over a combination of the cited references.

Given that claims 2-6 depend from claim 1, applicant submits that claims 2-6 are also patentable over the cited references.

With respect to claims 9, 10, 12, 14 and 15, it is submitted that these claims do not depend from claim 1 and are not themselves independent claims. Rather, claims 9, 10, 12, 14, 15 depend from and, therefore, include the limitations of independent claim 8. Independent claim 8, and thereby claims 9, 10, 12, 14 and 15, includes the limitation of “dynamic renegotiations are accomplished through the exchange of OAM cells between the nodes.”

The Office Action states “Bonomi and Sharma **fail** to disclose dynamic renegotiation via OAM cell exchange between the nodes.” (Office Action, 8/24/04, p. 5)(emphasis added). Based on such admission by the Examiner, it is respectfully submitted that a rejection of claims 9, 10, 12, 14 and 15 under 35 U.S.C. §103(a) as being unpatentable over Bonomi in view of Sharma is inapposite. Therefore, it is requested that such rejection be withdrawn.

With respect to claim 24, it is submitted that claim 24 does not depend from claim 1 and is not itself an independent claim. Rather, claim 24 depends from and, therefore, includes the limitations of independent claim 23. Independent claim 23, and thereby claim 24, includes the limitation of “means for exchange of OAM cells between the nodes.” For reasons similar to those given above it is respectfully submitted that a rejection of claim 24 under 35 U.S.C. §103(a) as being unpatentable over Bonomi in view of Sharma is inapposite. Therefore, it is requested that such rejection be withdrawn.

Claims 8, 21, and 23 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Bonomi in view of Sharma and further in view of Acharya. It is submitted that claim 8 is patentable over the cited references.

Claim 8 recites:

A method comprising managing a communication link between nodes of a communication network so as to ensure connection availability for one or more high priority calls over the communication link through dynamic renegotiations of call parameters for existing calls transported over the communication link, wherein the dynamic renegotiations comprise negotiations of compression schemes for the calls, **wherein the dynamic renegotiations are accomplished through the exchange of OAM cells between the nodes.**

(emphasis added)

The Office Action states, in part:

Bonomi and Sharma fail to disclose dynamic renegotiation via OAM cell exchange between the nodes.

Acharya discloses dynamic renegotiation via OAM cell exchange between the nodes (see col 8 L14-26, col 9 L35-67 and cols 13-14).

Negotiation and further dynamic renegotiation via exchange of OAM cells allows for continuous flow control through the network without having to tear down the network connections. Furthermore the use of OAM cells is well known in the art, which is used to provide a variety of information between network nodes including cell loss ratios, network fault management, and performance management between network nodes and/or devices.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Bonomi and Sharma to incorporate OAM cell exchange so as to dynamically renegotiate call parameters based on existing network conditions and therefore providing a continuous network connection for subject nodes of interest.

(Office Action, 8/24/04, pp. 4-6)

Applicants respectfully disagree with the Office Action's characterization of Acharya. It is submitted that Acharya does not disclose dynamic renegotiation via OAM cell exchange between nodes as purported by the Office Action. Acharya merely discloses a transmission of an OAM cell as a control message transmission using a VC. (See passages cited by Office Action). Nothing in Acharya discloses, teaches or suggests dynamic renegotiation via OAM cell exchange between nodes. Therefore, Acharya fails to cure the deficiency noted by the Office Action with respect to Bonomi and Sharma.

In addition, although the format and use of OAM cells is well known in the art as noted by the Office Action, it is submitted that claim 8 is not merely claiming the use of an OAM cell. Rather, claim 8 includes the limitation of dynamic renegotiations of call parameters for existing calls transported over the communication link wherein the **dynamic renegotiations** are accomplished through the **exchange of OAM cells between the nodes**. Nothing in any of the cited references either alone or in combination teaches or suggests the above noted claim 8 limitations. While a claimed invention may be a "technologically simple concept," it is not obvious without a finding as to the specific understanding or principle within the knowledge of the skilled artisan that would have

provided the motivation to modify the reference the manner purported by the Examiner.

In re Kotzab, 217 F.3d 1365, 1371 (Fed. Cir. 2000); MPEP 2143.01.

In addition, it is submitted that the proposed modification of Bonomi to use OAM cells in its rate congestion control system would require a substantial reconstruction and redesign of the elements shown in either Bonomi or Sharma and, therefore, cannot render claim 8 obvious. See In re Rattie, 270 F.2d 810 (CCPA 1959); MPEP 2143.01.

Therefore, applicant submits that claim 8 is patentable over the combination of the cited references.

Applicant submits that claim 16 is patentable over the cited references.

Claim 16 recites:

A network comprising:

a number of nodes connected through one or more communication links;

and

a resource manager configured to allocate bandwidth over the communication links to high priority calls received at one or more of the nodes without dropping existing calls within the network through dynamic renegotiations of existing bandwidth utilization within the network, wherein the nodes each support multiple codec resources to compress voice information transmitted over the communication links, wherein the dynamic renegotiations comprise **negotiations of compression schemes supported by the multiple codec resources** for the calls.

(emphasis added)

It is respectfully that it would be impermissible hindsight, based on applicants' own disclosure, to combine the cited references in the manner purported by the Office Action to arrive at applicants' claim 16 limitations. Moreover, the proposed modification of the ATM network of Bonomi to use the telephone system of Sharma would require a substantial reconstruction and redesign of the system shown in Bonomi and, therefore, cannot render the claim 16 obvious. See In re Rattie, 270 F.2d 810 (CCPA 1959); MPEP 2143.01. Therefore, claim 16 is patentable over the cited references.

For reasons similar to those given above with respect to claim 16, applicant submits that claims 21 and 23 are also patentable over the cited references.

In conclusion, applicant respectfully submits that in view of the arguments and amendments set forth herein, the applicable rejections have been overcome.

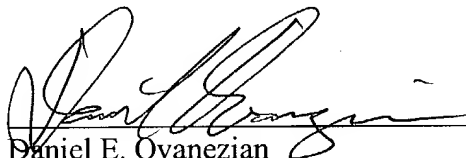
If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 11/16, 2004


Daniel E. Ovanezian
Registration No. 41,236

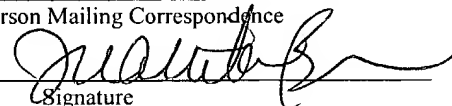
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300

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